

AMENDED IN SENATE JUNE 15, 2000

AMENDED IN ASSEMBLY MAY 25, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

## ASSEMBLY BILL

No. 2872

**Introduced by Committee on Budget (~~Ducheny (Chair),  
Aroner, Cedillo, Correa, Firebaugh, Florez, Gallegos,  
Keeley, Nakano, Papan, Reyes, Scott, Strom-Martin,  
Torlakson, Wildman, and Wright~~) Assembly Member  
Shelley**

**(Coauthors: Assembly Members Alquist, Aroner, Corbett,  
Davis, Gallegos, Hertzberg, Honda, Keeley, Knox, Kuehl,  
Lempert, Longville, Lowenthal, Mazzoni, Romero, Scott,  
Steinberg, Strom-Martin, Torlakson, Villaraigosa, Wiggins,  
and Wildman)**

**(Coauthors: Senators Alarcon, Bowen, Escutia, Murray,  
Ortiz, Perata, Polanco, and Solis)**

March 6, 2000

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*An act to add and repeal Part 3 (commencing with Section 1101) of Division 1 of the Food and Agricultural Code, to amend Sections 25404, 25404.1, 25404.3, 25404.4, 25404.5, and 25404.6 of, to add Sections 901 and 39619.6 to, to add Article 8.5 (commencing with Section 25395.20) to Chapter 6.8 of Division 20 of, and to add and repeal Section 25299.50.1 of, the Health and Safety Code, and to add Section 13182 to the Water Code, relating to resources and environmental protection, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

## LEGISLATIVE COUNSEL'S DIGEST

AB 2872, as amended, ~~Committee on Budget~~ Shelley. Resources and environmental protection: ~~implementation of the Budget Act of 2000~~ biomass facility grant program: cancer risk assessment guidelines: underground storage tanks: hazardous material loan program: fire safety: CUPA's: health conditions in portable classrooms: fish monitoring.

(1) Existing law provides for a Rice Straw Demonstration Project, which is administered by the State Air Resources Board for the purpose of developing demonstration projects for new rice straw technologies in the rice straw growing regions of California.

This bill would enact the Central Valley Agricultural Biomass-to-Energy Incentive Grant Program, which would permit air districts, as defined, to apply to the Trade and Commerce Agency to receive grants to provide incentives to facilities that convert qualified agricultural biomass, as defined, to fuel. The bill would require the agency to establish a multiagency review panel to assist in the grant eligibility determinations, and would require that panel to provide a report to the Legislature on the results and effectiveness of the program.

(2) Existing law establishes various cancer research, screening, and treatment programs.

This bill would require the Office of Environmental Health Hazard Assessment to evaluate and update cancer risk assessment guidelines with respect to the fetus, infants, and children. It would, in accordance with a prescribed timeline, require that office to take specific actions in this regard.

The bill would also require the Children's Environmental Health Center established in the Office of the Secretary of Environmental Protection to report to the Legislature and the Governor on the implementation of these provisions.

(3) Under the existing Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989, every owner of an underground storage tank is required to pay a storage fee for each gallon of petroleum placed in the tank. The fees are required to be deposited in the Underground Storage Tank Cleanup Fund. The money in the fund may be expended by

*the State Water Resources Control Board, upon appropriation by the Legislature, for various purposes, including the payment of claims, pursuant to a specified order of priority, to aid owners and operators of petroleum underground storage tanks who take corrective action to clean up unauthorized releases from those tanks.*

*This bill would create the Fire Safety Subaccount in the fund and would authorize the board to expend the money in the subaccount to pay a claim filed by a fire safety agency, as defined, that is subject to a specified order of priority. The bill would transfer \$5,000,000 from the fund to the subaccount and would appropriate that amount to the board for expenditure for claims filed before January 1, 2000, by such a fire safety agency. The bill would repeal the provisions establishing the subaccount on January 1, 2006, and would require any money remaining in the subaccount on that date to be transferred to the fund.*

*(4) The existing Carpenter-Presley-Tanner Hazardous Substance Account Act imposes liability for hazardous substance removal or remedial actions and requires the Department of Toxic Substances Control to adopt, by regulation, criteria for the selection and for the priority ranking of hazardous substance release sites for removal or remedial action under the act. The act authorizes the department to expend the funds in the Toxic Substances Control Account in the General Fund, upon appropriation by the Legislature, to pay for, among other things, removal and remedial actions related to the release of hazardous substances.*

*This bill would transfer \$85,000,000 from a prescribed item of the Budget Act of 2000 to the Cleanup Loans and Environmental Assistance to Neighborhoods Account established by the bill. The bill would transfer \$500,000 from a prescribed item in the Budget Act of 2000 to another item for program development related to the redevelopment of contaminated properties known as brownfields for the 2000–01 fiscal year.*

*(5) Existing law requires the Secretary for Environmental Protection to adopt implementing regulations and implement a unified hazardous waste and hazardous*

materials management regulatory program. A city or local agency that meets specified requirements is authorized to apply to the secretary to implement the unified program, and every county is required to apply to the secretary to be certified to implement the unified program. Each certified unified program agency (CUPA) is required to institute a single fee system to fund the implementation of the unified fee system. Existing law requires the secretary to take specified actions if no local agency has been certified by January 1, 1997, to implement the unified program within the unincorporated area of a county, including determining which agency should be designated as the certified unified program agency.

This bill would require the secretary to establish an electronic geographic information management system capable of receiving certain data collected by the unified program agencies and to make all nonconfidential data available on the Internet.

The bill would authorize any state agency, including, but not limited to, the State Department of Health Services, acting as a participating agency, to contract with a unified program agency to implement or enforce the unified program.

The bill would instead require the secretary, if no local agency has been certified in a county by January 1, 2000, to determine the methods by which the unified program shall be implemented and to select any combination of specified implementation methods. The bill would require the secretary to adopt, by regulation, performance standards to guide the secretary in evaluating unified program agencies, including evaluation fee accountability and enforcement activities.

The bill would require the secretary to establish the amount of the fee to be paid when the unified program agency is a state agency. The bill would require the secretary to submit a report to the Legislature, by January 10, 2001, regarding the sufficiency of the fee to support the reasonable and necessary cost of operating the unified program. The bill would impose a state-mandated local program by imposing new duties upon

counties with regard to the implementation of the unified program.

(6) Existing law provides for the State Air Resources Board in state government and assigns the state board various duties concerning air resources.

This bill would require the state board and the State Department of Health Services, in consultation with the State Department of Education, the Department of General Services, and the Office of Environmental Health Hazard Assessment to conduct a comprehensive study and review of the environmental health conditions in portable classrooms. The report would be required to address specified issues, be completed by June 30, 2002, and be provided to appropriate policy committees of the Legislature.

(7) Existing law requires the State Water Resources Control Board to prepare and complete on or before January 1, 2000, an inventory of existing water quality monitoring activities within state coastal watersheds, bays, estuaries, and coastal waters.

This bill would require the board to develop a comprehensive coastal water resources monitoring and assessment for fish and shellfish.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(9) This bill would also declare that it is to take effect immediately as an urgency statute.

~~Prior budget acts have appropriated funds for the purposes of resources and environmental protection.~~

~~This bill would declare the intent of the Legislature to make the necessary statutory changes to implement the Budget Act~~

~~of 2000 relative to the purposes of resources and environmental protection.~~

Vote: ~~majority~~ <sup>2</sup>/<sub>3</sub>. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

~~SECTION 1. It is the intent of the Legislature in enacting this act to make the necessary statutory changes to implement the Budget Act of 2000 relative to the purposes of resources and environmental protection.~~

SECTION 1. Part 3 (commencing with Section 1101) is added to Division 1 of the Food and Agricultural Code, to read:

PART 3. CENTRAL VALLEY AGRICULTURAL  
BIOMASS-TO-ENERGY INCENTIVE GRANT  
PROGRAM

1101. This part shall be known, and may be cited, as the Central Valley Agricultural Biomass-to-Energy Incentive Grant Program.

1102. The Legislature finds and declares all of the following:

(a) California agriculture produces substantial quantities of residual materials from farming practices, including orchard and vineyard pruning and removals. These residual materials are disposed of primarily by open field burning, resulting in air emissions that would be substantially reduced if the residual materials instead were converted into energy at a biomass-to-energy facility.

(b) California's longstanding energy policy encourages a diversity of electrical power generation sources, including biomass-to-energy and renewables. Existing biomass-to-energy powerplants provide an important alternative use for agricultural residue materials as well as electrical power for the people of California.

1 (c) California seeks to improve environmental quality  
2 and sustain our natural resources, in part through various  
3 strategies and programs that reduce agricultural,  
4 rangeland, and forest burning, and programs that foster  
5 higher value uses for materials that otherwise would be  
6 managed as wastes. Air districts currently administer air  
7 quality permit and emission requirement provisions,  
8 under state law, for various types of project facilities,  
9 including those using agricultural residue products as  
10 biomass fuel to produce electrical energy.

11 (d) Additional incentives are necessary to reduce  
12 open field burning of agricultural residual materials that  
13 degrade air quality, to produce electrical power from a  
14 renewable source, and to foster and sustain the biomass  
15 industry, including collection, hauling, and processing  
16 infrastructure, and, therefore, the Legislature establishes  
17 the Central Valley Agricultural Biomass-to-Energy  
18 Incentive Grant Program.

19 (e) The Legislature further finds and declares that  
20 providing the grants set forth under this program is in the  
21 public interest, serves a public purpose, and that  
22 providing incentives to facilities will promote the  
23 prosperity, health, safety, and welfare of the citizens of  
24 the State of California.

25 (f) It is also the intent of the Legislature to provide  
26 funding of thirty million dollars (\$30,000,000) over the  
27 three-year duration of the grant program.

28 1103. For the purposes of this part, the following  
29 definitions apply:

30 (a) "Agency" means the Trade and Commerce  
31 Agency.

32 (b) "Air district" means an air pollution control  
33 district or an air quality management district established  
34 or continued in existence pursuant to Part 3  
35 (commencing with Section 40000) of the Health and  
36 Safety Code.

37 (c) "Central Valley" means the Sacramento Valley  
38 Basin and the San Joaquin Valley Basin, as designated by  
39 the State Air Resources Board pursuant to Section 39606  
40 of the Health and Safety Code.



(d) “Facility” means any California site that as of July 1, 2000, converted, and continues to convert, qualified agricultural biomass from the Central Valley to energy and the conversion results in lower oxides of nitrogen (NO<sub>x</sub>) emissions than would otherwise be produced if burned in the open field during the ozone season in the Central Valley, as determined by the air district.

(e) “Grant” means an award of funds by the agency to an air district that shall, in turn, grant incentive payments to a facility after deducting the air district’s administrative fee as provided in Section 1104.

(f) “Incentive payment” means a payment by an air district to facilities for qualified agricultural biomass to be received and converted into energy after July 1, 2000. This payment shall be in the amount of ten dollars (\$10) for each ton of qualified agricultural biomass received for conversion to energy.

(g) “Qualified agricultural biomass” means agricultural residues, excluding urban and forest wood products, that include either of the following:

(1) Field and seed crop residues, including, but not limited to, straws from rice and wheat.

(2) Fruit and nut crop residues, including, but not limited to, orchard and vineyard pruning and removals.

1104. (a) An air district may apply to the agency to receive one or more grants to provide an incentive payment to one or more facilities located within its jurisdiction. The air district shall complete a separate application for each participating facility that shall consist of all of the following information:

(1) The name, address, contact person, and any other information necessary for the agency to communicate with the air district.

(2) The name, address, contact person, and any other information necessary for the agency to identify the facility.

(3) A resolution adopted by the air district containing both of the following findings:

(A) That the facility listed in the application meets the program definition of facility.



1 (B) That the annual estimated amount requested by  
2 the facility is based upon ten dollars (\$10) per ton for the  
3 quantity of qualified agricultural biomass that facility  
4 projects it will receive for conversion to energy during  
5 that fiscal year. The projection shall be based upon the  
6 capacity of the facility, the tonnage historically converted  
7 by the facility, and the tonnage of qualified agricultural  
8 biomass available within 50 miles of the facility.

9 (4) A summary report of the amount of actual biomass  
10 emissions of the facility, based on annual source tests, and  
11 the amount of emission reductions estimated to be  
12 acquired under the application. The estimated emission  
13 reductions for NO<sub>x</sub> shall be expressed as net pounds per  
14 ton.

15 (5) The capacity of the facility.

16 (6) The tonnage of biomass converted into energy by  
17 the facility for the five years prior to the date of the  
18 application.

19 (7) An estimate of the tonnage of qualified agricultural  
20 biomass existing within 50 miles of the facility.

21 (b) The agency shall schedule one or more application  
22 deadlines for awarding one-year grants to air districts.  
23 Procedures, forms, and guidelines established for the  
24 program, including the application process, are exempt  
25 from Chapter 3.5 (commencing with Section 11340) of  
26 Part 1 of Division 3 of Title 2 of the Government Code.  
27 The agency may request additional information from an  
28 air district solely to clarify information contained in the  
29 application or to correct clerical errors contained in the  
30 application.

31 (c) An air district receiving a grant from the agency  
32 pursuant to this part may receive 5 percent of the grant  
33 award for administering the biomass-to-energy  
34 production incentive payment and for performing  
35 related recordkeeping activities.

36 (d) The agency shall review all applications received  
37 by the deadline to determine that they are complete and  
38 eligible. All complete and eligible applications shall be  
39 reviewed by the review panel established pursuant to  
40 Section 1105. The review panel shall determine whether

1 *the findings by the air districts required by paragraph (3)*  
2 *of subdivision (a) are reasonable. If the panel determines*  
3 *that the findings are not reasonable, it may either*  
4 *determine the application to be ineligible, if it*  
5 *determines that the facility is not eligible under that part,*  
6 *or reduce the amount of funding requested, if it*  
7 *determines that estimated tonnage is inaccurate. The*  
8 *determination of the review panel shall be*  
9 *nonappealable.*

10 *(e) The agency shall tally the aggregate amount*  
11 *requested from all complete and eligible applications*  
12 *received by the application deadline following review,*  
13 *and possible modification by the review panel. If the*  
14 *amount exceeds the funds available for that application*  
15 *deadline, the amount awarded for each application shall*  
16 *be a percentage of the total funds available. To determine*  
17 *the percentage, the numerator shall be the grant funds*  
18 *requested by the air district after any modifications by the*  
19 *review panel, and the denominator shall be the aggregate*  
20 *amount requested from all complete and eligible*  
21 *applications after any modifications by the review panel.*  
22 *The agency shall enter into a grant agreement or grant*  
23 *agreements with each air district receiving a grant or*  
24 *grants.*

25 *(f) Facilities receiving incentive payments pursuant*  
26 *to this part are not eligible to receive emission reduction*  
27 *credits. Generators or suppliers of qualified agricultural*  
28 *biomass may not receive emission reduction credits for*  
29 *any qualified agricultural biomass for which a facility has*  
30 *received an incentive payment.*

31 *(g) On and after January 1, 2001, any energy produced*  
32 *by a facility that receives an incentive payment is not*  
33 *eligible for any other production subsidy, rebate,*  
34 *buydown, or any incentive funded through electricity*  
35 *surcharges.*

36 *1105. The agency shall establish a multiagency review*  
37 *panel. The panel shall consist of representatives from any*  
38 *or all of the following entities: the Department of Food*  
39 *and Agriculture, the Resources Agency, the California*  
40 *Environmental Protection Agency, the State Air*

1 *Resources Board, the State Energy Resources*  
2 *Conservation and Development Commission, the*  
3 *California Integrated Waste Management Board, and any*  
4 *other state agency deemed appropriate by the agency.*

5 *1106. Following the award of a grant, the agency shall*  
6 *enter into a grant agreement with the air district. The*  
7 *agency may advance grant funds to the air district. No*  
8 *additional amount shall be provided to an air district until*  
9 *the air district documents that the facility is converting*  
10 *the requisite tons of qualified agricultural biomass to*  
11 *energy. The documentation shall consist of the existing*  
12 *reporting and recordkeeping system, as set forth in*  
13 *subdivisions (b) and (c) of Section 41605.5 of the Health*  
14 *and Safety Code.*

15 *1107. The multiagency review panel established*  
16 *pursuant to Section 1105 shall provide a report to the*  
17 *Legislature on the results and effectiveness of the Central*  
18 *Valley Agricultural Biomass-to-Energy Incentive*  
19 *Program by January 1, 2003.*

20 *1108. This part shall remain in effect only until*  
21 *January 1, 2004, and as of that date is repealed, unless a*  
22 *later enacted statute, that is enacted before January 1,*  
23 *2004, deletes or extends that date.*

24 *SEC. 2. Section 901 is added to the Health and Safety*  
25 *Code, to read:*

26 *901. (a) As used in this section:*

27 *(1) "Center" means the Children's Environmental*  
28 *Health Center established pursuant to Section 900.*

29 *(2) "Office" means the Office of Environmental*  
30 *Health Hazard Assessment.*

31 *(b) The office shall evaluate and update cancer risk*  
32 *assessment guidelines in order to ensure that they*  
33 *adequately address carcinogenic exposures to the fetus,*  
34 *infants, and children. It is the intent of the Legislature*  
35 *that these updated child-specific guidelines be used by*  
36 *the office and other boards and departments with the*  
37 *California Environmental Protection Agency in order to*  
38 *establish cancer potency values or numerical health*  
39 *guidance values that are protective of infants and*  
40 *children.*

1 (c) On or before June 30, 2001, the office shall review  
2 existing state and federal cancer risk guidelines, as well as  
3 new information on carcinogenesis, and shall consider the  
4 extent to which existing guidelines address risks from  
5 exposures occurring early in life. This process shall  
6 include, but not be limited to, all of the following:

7 (1) The development of criteria for identifying  
8 carcinogens likely to have greater impact if exposures  
9 occur early in life.

10 (2) The assessment of methodologies used in existing  
11 guidelines to address early-in-life exposures.

12 (3) The construction of a data base of animal studies to  
13 evaluate increases in risks from short-term early-in-life  
14 exposures.

15 (4) The development of a list of up to 10 human  
16 cancers that may be promoted by early-in-life exposures  
17 to carcinogens.

18 (d) On or before June 30, 2002, the office shall develop  
19 a list of up to 20 carcinogens that potentially pose greater  
20 risk to the fetus, infants, or children, and shall initiate the  
21 development of modification factors to be used in  
22 calculating increased cancer risk from early-in-life  
23 exposures to these carcinogens. The office shall, annually  
24 thereafter, identify up to an additional 10 carcinogens  
25 that potentially pose greater risk to the fetus, infants, or  
26 children, and shall initiate the development of  
27 modification factors to be used in calculating increased  
28 cancer risk from early-in-life exposures to these  
29 carcinogens.

30 (e) (1) On or before June 30, 2004, the office shall  
31 finalize and publish children's cancer guidelines which  
32 shall be protective of children's health. These guidelines  
33 shall be revised and updated as needed.

34 (f) On or before December 31, 2002, the office shall  
35 publish a guidance document, for use by the Department  
36 of Toxic Substances Control and other state and local  
37 environmental and public health agencies, to assess  
38 exposures and health risks at existing and proposed school  
39 sites. The guidance shall include, but not be limited to, all  
40 of the following:

1 (A) Appropriate child-specific roots of exposure  
2 unique to the school environment in addition to those in  
3 existing exposure assessment models.

4 (B) Identified roots for the transport of chemical  
5 contaminants into the school environment and roots for  
6 transport within the school environment.

7 (C) Appropriate available child-specific numerical  
8 health effects guidance values, and plans for the  
9 development of additional child-specific numerical  
10 health effects guidance values.

11 (D) Identified data gaps and uncertainty in the risk  
12 assessment guidance, and plans for further investigation  
13 of these data gaps and for the reduction of this  
14 uncertainty.

15 (2) The office shall consult with the Department of  
16 Toxic Substances Control and the State Department of  
17 Education in the preparation of the exposure and risk  
18 assessment guidance required by paragraph (1) in order  
19 to ensure that it provides the information necessary for  
20 these two agencies to meet the requirements of Sections  
21 17210.1 and 17213.1 of the Education Code.

22 (g) By December 31, 2001, the office, in consultation  
23 with the Department of Toxic Substances Control, shall  
24 identify at least five, but not more than 10, chemical  
25 contaminants commonly found at school sites that are of  
26 greatest concern, based on criteria that identify  
27 child-specific exposures and child-specific physiological  
28 sensitivities. The office shall, by December 31, 2002,  
29 publish numerical health guidance values for three of the  
30 chemical contaminants identified pursuant to this  
31 subdivision, and five additional numerical health  
32 guidance values annually thereafter for chemical  
33 contaminants found at school sites that are of the greatest  
34 concern.

35 (h) The center shall initially report to the Legislature  
36 and the Governor on or before December 31, 2001, on the  
37 implementation of subdivisions (a) to (g), inclusive, as  
38 part of the report required by subdivision (d) of Section  
39 900. The center shall report that information to the  
40 Legislature and the Governor biannually thereafter. The

1 report required pursuant to this section shall include, but  
2 not be limited to, information on revisions or modifying  
3 factors made by the office and other boards and  
4 departments within the California Environmental  
5 Protection Agency to cancer potency values and other  
6 numerical health guidance values in order to be  
7 protective of children's health. The report shall also  
8 discuss the use of the revised health guidance values in  
9 the goal-setting, standard-setting and other program  
10 activities of the office and the other boards and  
11 departments within the California Environmental  
12 Protection Agency. For purposes of this section,  
13 "program activities" includes, but is not limited to, the  
14 development of safe drinking water public health goals,  
15 the development of air unit risks for the Toxic Air  
16 Contaminants Program, and risk assessments at existing  
17 and proposed school sites.

18 SEC. 3. Section 25299.50.1 is added to the Health and  
19 Safety Code, to read:

20 25299.50.1. (a) For purposes of this section, "fire  
21 safety agency" means a city fire department, county fire  
22 department, city and county fire department, fire  
23 protection district, a joint powers authority formed for  
24 the purpose of providing fire protection services, or any  
25 other local agency that normally provides fire protection  
26 services.

27 (b) The Fire Safety Subaccount is hereby created in  
28 the Underground Storage Tank Cleanup Fund, for  
29 expenditure by the board to pay a claim described in  
30 paragraph (4) of subdivision (b) of Section 25299.52 that  
31 was filed before January 1, 2000, by a fire safety agency.  
32 Except as provided in subdivision (d), the board shall pay  
33 such a claim filed by a fire safety agency only from funds  
34 appropriated from the Fire Safety Subaccount.

35 (c) The sum of five million dollars (\$5,000,000) of the  
36 moneys in the fund derived from the sources described  
37 in paragraphs (1) to (4), inclusive, of subdivision (b) of  
38 Section 25299.50 is hereby transferred from the fund to  
39 the Fire Safety Subaccount, and appropriated therefrom  
40 to the board, for expenditure pursuant to this section for



1 *a claim filed by a fire safety agency specified in*  
2 *subdivision (b).*

3 *(d) The unpaid amount of any claim filed by a fire*  
4 *safety agency specified in subdivision (b), for which a*  
5 *closure letter has not been issued pursuant to subdivision*  
6 *(h) of Section 25299.37 on or before January 1, 2006, shall*  
7 *not be payable from the Fire Safety Subaccount but shall*  
8 *revert to the priority ranking for claims specified in*  
9 *Section 25299.52.*

10 *(e) The payment of claims pursuant to this section*  
11 *shall not affect the board's payment of claims filed*  
12 *pursuant to paragraph (1), (2), or (3) of subdivision (b)*  
13 *of Section 25299.52.*

14 *(f) Any funds remaining in the Fire Safety Subaccount*  
15 *on January 1, 2006, shall be transferred to the fund.*

16 *(g) This section shall remain in effect only until*  
17 *January 1, 2006, and as of that date is repealed, unless a*  
18 *later enacted statute, that is enacted before January 1,*  
19 *2006, deletes or extends that date.*

20 *SEC. 4. Article 8.5 (commencing with Section*  
21 *25395.20) is added to Division 20 of the Health and Safety*  
22 *Code, to read:*

23

24 *Article 8.5. Cleanup Loans and Environmental*  
25 *Assistance to Neighborhoods*

26

27 *25395.20. The Cleanup Loans and Environmental*  
28 *Assistance to Neighborhoods Account is hereby*  
29 *established in the General Fund.*

30 *SEC. 5. Section 25404 of the Health and Safety Code*  
31 *is amended to read:*

32 *25404. (a) For purposes of this chapter, the following*  
33 *terms shall have the following meaning:*

34 *(1) (A) "Certified Unified Program Agency" or*  
35 *"CUPA" means the agency certified by the secretary to*  
36 *implement the unified program specified in this chapter*  
37 *within a jurisdiction.*

38 *(B) "Participating Agency" or "PA" means an agency*  
39 *that has a written agreement with the CUPA pursuant to*  
40 *subdivision (d) of Section 25404.3, and is approved by the*





1 secretary, to implement or enforce one or more of the  
2 unified program elements specified in subdivision (c), in  
3 accordance with Sections 25404.1 and 25404.2.

4 (C) “Unified Program Agency” or “UPA” means the  
5 CUPA, or its participating agencies to the extent each PA  
6 has been designated by the CUPA, pursuant to a written  
7 agreement, to implement or enforce a particular unified  
8 program element specified in subdivision (c). The UPAs  
9 have the responsibility and authority to implement and  
10 enforce the requirements listed in subdivision (c), and  
11 the regulations adopted to implement the requirements  
12 listed in subdivision (c), to the extent provided by  
13 Chapter 6.5 (commencing with Section 25100), Chapter  
14 6.67 (commencing with Section 25270), Chapter 6.7  
15 (commencing with Section 25280), Chapter 6.95  
16 (commencing with Section 25500), and Sections 25404.1  
17 and 25404.2. After a CUPA has been certified by the  
18 secretary, the unified program agencies *and the state*  
19 *agencies carrying out responsibilities under this chapter*  
20 shall be the only ~~local~~ agencies authorized to enforce the  
21 requirements listed in subdivision (c) within the  
22 jurisdiction of the CUPA.

23 (2) “Department” means the Department of Toxic  
24 Substances Control.

25 (3) “Secretary” means the Secretary for  
26 Environmental Protection.

27 (4) “Unified program facility” means all contiguous  
28 land and structures, other appurtenances, and  
29 improvements on the land that are subject to the  
30 requirements listed in subdivision (c) of Section 25404.

31 (5) “Unified program facility permit” means a permit  
32 issued pursuant to this chapter. For the purposes of this  
33 chapter, a unified program facility permit encompasses  
34 the permitting requirements of Section 25284, and any  
35 permit or authorization requirements under any local  
36 ordinance or regulation relating to the generation or  
37 handling of hazardous waste or hazardous materials, but  
38 does not encompass the permitting requirements of a  
39 local ordinance that incorporates provisions of the  
40 Uniform Fire Code or the Uniform Building Code.

1 (b) The secretary shall adopt implementing  
2 regulations and implement a unified hazardous waste and  
3 hazardous materials management regulatory program,  
4 which shall be known as the unified program, after  
5 holding an appropriate number of public hearings  
6 throughout the state. The unified program shall be  
7 developed in close consultation with the director, the  
8 Director of the Office of Emergency Services, the State  
9 Fire Marshal, the executive officers and chairpersons of  
10 the State Water Resources Control Board and the  
11 California regional water quality control boards, the local  
12 health officers, local fire services, and other appropriate  
13 officers of interested local agencies, and affected  
14 businesses and interested members of the public,  
15 including environmental organizations.

16 (c) The unified program shall consolidate the  
17 administration of the following requirements, and shall,  
18 to the maximum extent feasible within statutory  
19 constraints, ensure the coordination and consistency of  
20 any regulations adopted pursuant to those requirements:

21 (1) (A) Except as provided in subparagraphs (B) and  
22 (C), the requirements of Chapter 6.5 (commencing with  
23 Section 25100), and the regulations adopted by the  
24 department pursuant thereto, applicable to hazardous  
25 waste generators, and persons operating pursuant to a  
26 permit-by-rule, conditional authorization, or conditional  
27 exemption, pursuant to Chapter 6.5 (commencing with  
28 Section 25100) or the regulations adopted by the  
29 department.

30 (B) The unified program shall not include the  
31 requirements of paragraph (3) of subdivision (c) of  
32 Section 25200.3, the requirements of Sections 25200.10  
33 and 25200.14, and the authority to issue an order under  
34 Sections 25187 and 25187.1, with regard to those portions  
35 of a unified program facility that are subject to one of the  
36 following:

37 (i) A corrective action order issued by the department  
38 pursuant to Section 25187.

1 (ii) An order issued by the department pursuant to  
2 Chapter 6.8 (commencing with Section 25300) or  
3 Chapter 6.85 (commencing with Section 25396).  
4 (iii) A remedial action plan approved pursuant to  
5 Chapter 6.8 (commencing with Section 25300) or  
6 Chapter 6.85 (commencing with Section 25396).  
7 (iv) A cleanup and abatement order issued by a  
8 California regional water quality control board pursuant  
9 to Section 13304 of the Water Code, to the extent that the  
10 cleanup and abatement order addresses the  
11 requirements of the applicable section or sections listed  
12 in this subparagraph.  
13 (v) Corrective action required under subsection (u)  
14 of Section 6924 of Title 42 of the United States Code or  
15 subsection (h) of Section 6928 of Title 42 of the United  
16 States Code.  
17 (vi) An environmental assessment pursuant to Section  
18 25200.14 or a corrective action pursuant to Section  
19 25200.10 or paragraph (3) of subdivision (c) of Section  
20 25200.3, that is being overseen by the department.  
21 (C) The unified program shall not include the  
22 requirements of Chapter 6.5 (commencing with Section  
23 25100), and the regulations adopted by the department  
24 pursuant thereto, applicable to persons operating  
25 transportable treatment units, except that any required  
26 notice regarding transportable treatment units shall also  
27 be provided to the CUPAs.  
28 (2) The requirement of subdivision (c) of Section  
29 25270.5 for owners and operators of aboveground storage  
30 tanks to prepare a spill prevention control and  
31 countermeasure plan.  
32 (3) The requirements of Chapter 6.7 (commencing  
33 with Section 25280) concerning underground storage  
34 tanks, except for the responsibilities assigned to the State  
35 Water Resources Control Board pursuant to Section  
36 25297.1, and the requirements of any underground  
37 storage tank ordinance adopted by a city or county.  
38 (4) The requirements of Article 1 (commencing with  
39 Section 25501) of Chapter 6.95 concerning hazardous  
40 material release response plans and inventories.



(5) The requirements of Article 2 (commencing with Section 25531) of Chapter 6.95, concerning the accidental release prevention program.

(6) The requirements of subdivisions (b) and (c) of Section 80.103 of the Uniform Fire Code, as adopted by the State Fire Marshal pursuant to Section 13143.9 of the Health and Safety Code, concerning hazardous material management plans and inventories.

(d) To the maximum extent feasible within statutory constraints, the secretary shall consolidate, coordinate, and make consistent these requirements of the unified program with other requirements imposed by other federal, state, regional, or local agencies upon facilities regulated by the unified program.

(e) (1) The secretary shall establish standards ~~to be used by applicable to~~ CUPAs, participating agencies, state agencies, and businesses ~~for the sharing of electronic data used within~~ specifying the data to be collected and submitted by unified program agencies in administering the programs listed in subdivision (c) of Section 25404. Those standards shall incorporate any standard developed under Section 25503.3.

(2) The secretary shall establish an electronic geographic information management system capable of receiving all data collected by the unified program agencies pursuant to paragraph (1). The secretary shall make all nonconfidential data available on the Internet.

SEC. 6. Section 25404.1 of the Health and Safety Code is amended to read:

25404.1. (a) (1) All aspects of the unified program related to the adoption and interpretation of statewide standards and requirements shall be the responsibility of the state agency which is charged with that responsibility under existing law. For underground storage tanks, that agency shall be the State Water Resources Control Board. The California regional water quality control boards shall have responsibility for the issuance of variances pursuant to subdivision (b) of Section 25299.4. The Department of Toxic Substances Control shall have the sole responsibility for the issuances of variances from the

1 requirements of Chapter 6.5 (commencing with Section  
2 25100) and the regulations adopted pursuant thereto, for  
3 the determination of whether or not a waste is hazardous  
4 or nonhazardous, for the determination of whether or not  
5 a person is eligible to be deemed to be operating pursuant  
6 to a permit-by-rule, conditional authorization, or  
7 conditional exemption pursuant to Chapter 6.5  
8 (commencing with Section 25100) or the regulations  
9 adopted by the department, and for the suspension and  
10 revocation of permits-by-rule, conditional authorizations,  
11 and conditional exemptions.

12 (2) Except as provided in paragraphs (1) and (3),  
13 those aspects of the unified program related to the  
14 application of statewide standards to particular facilities,  
15 including the issuance of unified program facility  
16 permits, the review of reports and plans, environmental  
17 assessment, compliance and correction, and the  
18 enforcement of those standards and requirements against  
19 particular facilities, shall be the responsibility of the  
20 unified program agencies.

21 (3) (A) Except in those jurisdictions for which the  
22 UPA has been determined by the department, in  
23 accordance with regulations adopted pursuant to  
24 subparagraph (C), to be qualified to implement the  
25 environmental assessment and removal and remediation  
26 corrective action aspects of the unified program, the  
27 department shall have sole responsibility and authority  
28 under the unified program for all of the following:

29 (i) Implementing and enforcing the requirements of  
30 paragraph (3) of subdivision (c) of Section 25200.3 and  
31 Sections 25200.10 and 25200.14, and the regulations  
32 adopted by the department to implement those sections.  
33 As a pilot program in up to 10 counties, pending the  
34 adoption and implementation of regulations pursuant to  
35 subparagraph (C), the department may delegate to the  
36 CUPA, through a delegation agreement, responsibility  
37 and authority for implementing and enforcing the  
38 requirements of Section 25200.14.

39 (ii) The issuance of orders under Section 25187  
40 requiring removal or remedial action.

1 (iii) The issuance of orders under Section 25187.1.

2 (B) Notwithstanding subparagraph (A), a UPA may  
3 issue an order under Section 25187 specifying a schedule  
4 for compliance or correction and imposing an  
5 administrative penalty for any violation of the  
6 requirements of Chapter 6.5 (commencing with Section  
7 25100) listed in paragraph (1) of subdivision (c) of  
8 Section 25404, or the requirements of any permit, rule,  
9 regulation, standard or requirement issued or adopted  
10 pursuant to the requirements of Chapter 6.5  
11 (commencing with Section 25100) listed in paragraph (1)  
12 of subdivision (c) of Section 25404, if one of the following  
13 applies:

14 (i) The order does not require removal or remedial  
15 action.

16 (ii) The only removal or remedial actions required by  
17 the order are those actions determined to be necessary to  
18 address an imminent and substantial endangerment  
19 based upon a finding by the UPA pursuant to subdivision  
20 (f) of Section 25187.

21 (C) The department shall adopt emergency  
22 regulations specifying the criteria and procedures for  
23 implementing paragraph (3) of subdivision (c) of Section  
24 25200.3 and Sections 25200.10 and 25200.14, including  
25 criteria and procedures for determining whether or not  
26 a unified program agency is qualified to implement the  
27 environmental assessment and removal and remediation  
28 corrective action portions of the unified program under  
29 paragraph (3) of subdivision (c) of Section 25200.3 and  
30 Sections 25187, 25187.1, 25200.10, and 25200.14. The  
31 criteria for determining whether a unified program  
32 agency is qualified shall, at a minimum, include  
33 consideration of the following factors:

34 (i) Adequacy of the technical expertise possessed by  
35 the unified program agency.

36 (ii) Adequacy of staff resources.

37 (iii) Adequacy of budget resources and funding  
38 mechanisms.

39 (iv) Training requirements.

1 (v) Past performance in implementing and enforcing  
2 requirements related to environmental assessments, and  
3 removal and remediation corrective actions.

4 (vi) Recordkeeping and accounting systems.

5 (D) The regulations adopted by the department  
6 pursuant to subparagraph (C) shall include provisions to  
7 ensure coordinated and consistent application of  
8 paragraph (3) of subdivision (c) of Section 25200.3 and  
9 Sections 25187, 25187.1, 25200.10, and 25200.14, when both  
10 the department and the unified program agency are, or  
11 will be, implementing and enforcing the requirements of  
12 one or more of these sections at the same facility.

13 (E) For purposes of subparagraph (D), “facility”  
14 means the entire site that is under the control of the  
15 owner or operator.

16 (F) *If the department is designated as a unified*  
17 *program agency, the department is deemed qualified to*  
18 *implement all of the following:*

19 (i) *The environmental assessment, removal and*  
20 *remedial action, and corrective action aspects of the*  
21 *unified program.*

22 (ii) *Paragraph (3) of subdivision (c) of Section*  
23 *25300.3, Sections 25200.10, 25200.14, 25187, and 25287.1,*  
24 *and the regulations adopted by the department to*  
25 *implement those provisions.*

26 (b) (1) On or before January 1, 1996, each county shall  
27 apply to the secretary to be certified as a unified program  
28 agency to implement the unified program within the  
29 unincorporated area of the county and within each city  
30 in the county, in which area or city, as of January 1, 1996,  
31 the city or other local agency has not applied to be the  
32 certified unified program agency.

33 (2) (A) Any city or other local agency which, as of  
34 December 31, 1995, has been designated as an  
35 administering agency pursuant to Section 25502, or which  
36 has assumed responsibility for the implementation of  
37 Chapter 6.7 (commencing with Section 25280) pursuant  
38 to Section 25283, may apply to the secretary to become  
39 the certified unified program agency to implement the



1 unified program within the jurisdictional boundaries of  
2 the city or local agency.

3 (B) A city or other local agency which, as of December  
4 31, 1995, has not been designated as an administering  
5 agency pursuant to Section 25502, or which has not  
6 assumed responsibility for the implementation of  
7 Chapter 6.7 (commencing with Section 25280) pursuant  
8 to Section 25283, may apply to the secretary to become  
9 the certified unified program agency within the  
10 jurisdictional boundaries of the city or local agency if it  
11 enters into an agreement with the county to become the  
12 certified unified program agency within those  
13 boundaries. A county shall not refuse to enter into an  
14 agreement unless it specifies in writing its reasons for  
15 failing to enter into the agreement. However, if the city  
16 does not enter into the agreement with the county,  
17 within 30 days of receiving a county's reasons for failing  
18 to enter into agreement, a city may request that the  
19 secretary allow it to apply to be a certified unified  
20 program agency and the secretary may, in his or her  
21 discretion, approve the request.

22 (3) A city, county, or other local agency may propose,  
23 in its application for certification to the secretary, to allow  
24 other public agencies to implement certain elements of  
25 the unified program, but the secretary shall accept that  
26 proposal only if the secretary makes the findings specified  
27 in subdivision (d) of Section 25404.3.

28 (4) If a city or other local agency which, as of  
29 December 31, 1995, has been designated as an  
30 administering agency pursuant to Section 25502, or has  
31 assumed responsibility for the implementation of  
32 Chapter 6.7 (commencing with Section 25280) pursuant  
33 to Section 25283, requests that the county propose in its  
34 application for certification to the secretary that the city  
35 or local agency implement, within the jurisdictional  
36 boundaries of the city or local agency, those elements of  
37 the unified program which, as of December 31, 1995, the  
38 city or local agency has authority to administer, the  
39 county shall grant that request. If such an agency is  
40 subsequently removed or withdraws from the unified

1 program, the agency shall not act as an administering  
2 agency under Section 25502 or act as a local agency  
3 pursuant to Chapter 6.7 (commencing with Section  
4 25280), except as provided in subdivision (c) of Section  
5 25283.

6 *SEC. 7. Section 25404.3 of the Health and Safety Code*  
7 *is amended to read:*

8 25404.3. (a) The secretary shall, within a reasonable  
9 time after submission of a complete application for  
10 certification pursuant to Section 25404.2, and regulations  
11 adopted pursuant to that section, but not to exceed 180  
12 days, review the application, and, after holding a public  
13 hearing, determine if the application should be approved.  
14 Before disapproving an application for certification, the  
15 secretary shall submit to the applicant agency a  
16 notification of the secretary's intent to disapprove the  
17 application, in which the secretary shall specify the  
18 reasons why the applicant agency does not have the  
19 capability or the resources to fully implement and  
20 enforce the unified program in a manner that is  
21 consistent with the regulations implementing the unified  
22 program adopted by the secretary pursuant to this  
23 chapter. The secretary shall provide the applicant agency  
24 with a reasonable time to respond to the reasons specified  
25 in the notification and to correct deficiencies in its  
26 application. The applicant agency may request a second  
27 public hearing, at which the secretary shall hear the  
28 applicant agency's response to the reasons specified in the  
29 notification.

30 (b) In determining whether an applicant agency  
31 should be certified, the secretary, after receiving  
32 comments from the director, the Director of the Office  
33 of Emergency Services, the State Fire Marshal, and the  
34 executive officers and chairpersons of the State Water  
35 Resources Control Board and the California regional  
36 water quality control boards, shall consider at least all of  
37 the following factors:

38 (1) Adequacy of the technical expertise possessed by  
39 each unified program agency which will be  
40 implementing each element of the unified program,

1 including, but not limited to, whether the agency  
2 responsible for implementing and enforcing the  
3 requirements of Chapter 6.5 (commencing with Section  
4 25100) satisfies the requirements of Section 66272.44 of  
5 Title 22 of the California Code of Regulations.

6 (2) Adequacy of staff resources.

7 (3) Adequacy of budget resources and funding  
8 mechanisms.

9 (4) Training requirements.

10 (5) Past performance in implementing and enforcing  
11 requirements related to the handling of hazardous  
12 materials and hazardous waste.

13 (6) Recordkeeping and cost accounting systems.

14 (7) Compliance with the criteria in Section 66272.10 of  
15 Title 22 of the California Code of Regulations, except for  
16 the requirement of paragraph (2) of subdivision (b) of  
17 that section related to countywide jurisdiction.

18 (c) (1) In making the determination of whether or  
19 not to certify a particular applicant agency as a certified  
20 unified program agency, the secretary shall consider the  
21 applications of every other applicant agency applying to  
22 be a certified unified program agency within the same  
23 county, in order to determine the impact of each  
24 certification decision on the county. If the secretary  
25 identifies that there may be adverse impacts on the  
26 county if any particular agency in a county is certified, the  
27 secretary shall work cooperatively with each affected  
28 agency to address the secretary's concerns.

29 (2) The secretary shall not certify an agency to be a  
30 certified unified program agency unless the secretary  
31 finds both of the following:

32 (A) The unified program will be implemented in a  
33 coordinated and consistent manner throughout the  
34 entire county in which the applicant agency is located.

35 (B) The administration of the unified program  
36 throughout the entire county in which the applicant  
37 agency is located will be less fragmented between  
38 jurisdictions, as compared to before January 1, 1994, with  
39 regard to the administration of the provisions specified in  
40 subdivision (c) of Section 25404.

1 (d) (1) The secretary shall not certify an applicant  
2 agency which proposes to allow participating agencies to  
3 implement certain elements of the unified program  
4 unless the secretary makes all of the following findings:

5 (A) The applicant agency has adequate authority, and  
6 has in place adequate systems, protocols, and agreements,  
7 to ensure that the actions of the other agencies proposed  
8 to implement certain elements of the unified program  
9 are fully coordinated and consistent with each other and  
10 with those of the applicant agency, and to ensure full  
11 compliance with the regulations implementing the  
12 unified program adopted by the secretary pursuant to  
13 this chapter.

14 (B) An agreement between the applicant and other  
15 agencies proposed to implement any elements of the  
16 unified program contains procedures for removing any  
17 agencies proposed and engaged to implement any  
18 element of the unified program. The procedures in the  
19 agreement shall include, at a minimum, provisions for  
20 providing notice, stating causes, taking public comment,  
21 making appeals, and resolving disputes.

22 (C) The other agencies proposed to implement  
23 certain elements of the unified program have the  
24 capability and resources to implement those elements,  
25 taking into account the factors designated in subdivision  
26 (b).

27 (D) If any of the other agencies proposed to  
28 implement certain elements of the unified program are  
29 not directly responsible to the same governing body as  
30 the applicant agency, the applicant agency maintains an  
31 agreement with any agency which ensures that the  
32 requirements of Section 25404.2 will be fully  
33 implemented.

34 (E) If the applicant agency proposes that any agency  
35 other than itself will be responsible for implementing  
36 aspects of the single fee system imposed pursuant to  
37 Section 25404.5, the applicant agency maintains an  
38 agreement with that agency which ensures that the fee  
39 system is implemented in a fully consistent and  
40 coordinated manner, and which ensures that each

1 participating agency receives the amount which it  
2 determines to constitute its necessary and reasonable  
3 costs of implementing the element or elements of the  
4 unified program which it is responsible for  
5 implementing.

6 (2) After the secretary has certified an applicant  
7 agency pursuant to this subdivision, that agency shall  
8 obtain the approval of the secretary before removing and  
9 replacing a participating agency that is implementing an  
10 element of the unified program.

11 (3) *Any state agency, including, but not limited to, the*  
12 *State Department of Health Services, acting as a*  
13 *participating agency, may contract with a unified*  
14 *program agency to implement or enforce the unified*  
15 *program.*

16 (e) Until a city's or county's application for  
17 certification to implement the unified program is acted  
18 upon by the secretary, the roles, responsibilities, and  
19 authority for implementing the programs identified in  
20 subdivision (c) of Section 25404 which existed in that city  
21 or county pursuant to statutory authorization as of  
22 December 31, 1993, shall remain in effect.

23 (f) (1) ~~If Except as provided in subparagraph (C) of~~  
24 ~~paragraph (2), if no local agency has been certified by~~  
25 ~~January 1, 1997, to implement the unified program within~~  
26 ~~a city, the secretary shall designate either the county in~~  
27 ~~which the city is located; or the joint powers agency into~~  
28 ~~which the county has entered for the purposes of~~  
29 ~~implementing the unified program, shall implement the~~  
30 ~~unified program within that city, if the county or joint~~  
31 ~~powers agency is a certified unified program agency. In~~  
32 ~~such an instance, the secretary shall work cooperatively~~  
33 ~~with the county or joint powers agency and the city to~~  
34 ~~develop the details of the county's unified program~~  
35 ~~implementation efforts in that city another agency~~  
36 ~~pursuant to subparagraph (A) of paragraph (2) as the~~  
37 ~~unified program agency.~~

38 (2) ~~If (A) Except as provided in subparagraph (C), if~~  
39 ~~no local agency has been certified by January 1, 1997 2001,~~  
40 ~~to implement the unified program within the~~

1 unincorporated *or an incorporated* area of a county, the  
2 secretary shall determine how the unified program  
3 ~~should~~ *shall* be implemented in the unincorporated area  
4 of the county, and in any city in which there is no agency  
5 certified to implement the unified program. In such an  
6 instance, the secretary shall work ~~cooperatively in~~  
7 *consultation* with the county and cities to determine  
8 which *state or local agency or* combination of state and  
9 local agencies should implement the unified program,  
10 and shall determine which ~~agency should~~ *state or local*  
11 *agencies shall* be designated as the certified unified  
12 program agency. ~~If the secretary determines that the~~  
13 ~~protection of public health and safety and the~~  
14 ~~environment would be best served by maintaining part~~  
15 ~~or all of the roles, responsibilities, and authority for~~  
16 ~~implementing the programs identified in subdivision (c)~~  
17 ~~of Section 25404 which existed in the city or county as of~~  
18 ~~December 31, 1993, the secretary may authorize those~~  
19 ~~roles and responsibilities and that authority to continue.~~

20 *(B) The secretary shall determine the method by*  
21 *which the unified program shall be implemented*  
22 *throughout the county and may select any combination*  
23 *of the following implementation methods:*

24 *(i) The certification of a state or local agency as a*  
25 *certified unified program agency.*

26 *(ii) The certification of an agency from another*  
27 *county as the certified unified program agency.*

28 *(iii) The certification of a joint powers agency as the*  
29 *certified unified program agency.*

30 *(C) Notwithstanding paragraph (1) and*  
31 *subparagraphs (A) and (B) of this section, if the cities of*  
32 *Sunnyvale, Anaheim, and Santa Ana prevail in litigation*  
33 *filed in 1997 against the secretary, and, to the extent the*  
34 *secretary determines that these three cities meet the*  
35 *requirements for certification, the secretary may certify*  
36 *these cities as certified unified program agencies.*

37 *(g) (1) If a certified unified program agency wishes to*  
38 *withdraw from its obligations to implement the unified*  
39 *program and is a city or a joint powers agency*  
40 *implementing the unified program within a city, the*

1 agency may withdraw after providing 180 days' notice to  
2 the secretary and to the county within which the city is  
3 located, or to the joint powers agency with which the  
4 county has an agreement to implement the unified  
5 program.

6 (2) Whenever a certified unified program agency  
7 withdraws from its obligations to implement the unified  
8 program, or the secretary withdraws an agency's  
9 certification pursuant to Section 25404.4, the successor  
10 certified unified program agency shall be determined in  
11 accordance with subdivision (f).

12 *SEC. 8. Section 25404.4 of the Health and Safety Code*  
13 *is amended to read:*

14 25404.4. (a) (1) The secretary shall periodically  
15 review the ability of each certified unified program  
16 agency to carry out this chapter. *In conducting this*  
17 *review, the secretary shall review both the elements of*  
18 *each CUPA's enforcement program and the efficacy of*  
19 *the program in ensuring compliance with the unified*  
20 *program's requirements.* If a certified unified program  
21 agency fails to meet its obligations to adequately  
22 implement the unified program, the secretary may  
23 withdraw the certified unified program agency's  
24 certification, or may enter into a program improvement  
25 agreement with the certified unified program agency to  
26 make the necessary improvements. A certified unified  
27 program agency with which the secretary has entered  
28 into a program improvement agreement may continue to  
29 implement the unified program while the program  
30 improvement agreement is in effect and the certified  
31 unified program agency is in compliance with the  
32 agreement. *If the secretary finds that a CUPA has not met*  
33 *the enforcement performance standards adopted*  
34 *pursuant to Section 25404.6 and the secretary enters into*  
35 *a program improvement agreement with the CUPA, the*  
36 *agreement shall make the improvement of enforcement*  
37 *the highest priority.*

38 (2) Before withdrawing a certified unified program  
39 agency's certification, the secretary shall submit to the  
40 certified unified program agency a notification of the



1 secretary's intent to withdraw certification, in which the  
2 secretary shall specify the reasons why the certified  
3 unified program agency has failed to meet its obligations  
4 to adequately implement the unified program. The  
5 secretary shall provide the certified unified program  
6 agency with a reasonable time to respond to the reasons  
7 specified in the notification and to correct the  
8 deficiencies specified in the notification. The certified  
9 unified program agency may request a public hearing, at  
10 which the secretary shall hear the agency's response to  
11 the reasons specified in the notification.

12 (b) (1) If the secretary finds that a certified unified  
13 program agency has failed to adequately enforce the  
14 requirements of the unified program with respect to a  
15 particular facility, the secretary may direct the  
16 appropriate state agency to take any necessary actions  
17 and to issue necessary orders to the facility.

18 (2) If the secretary finds that the *failure* to adequately  
19 enforce the requirements of the unified program may  
20 result in an imminent and substantial endangerment to  
21 the environment or to the public health and safety, the  
22 secretary shall direct the appropriate state agency to take  
23 any necessary actions and to issue the necessary orders to  
24 the facility.

25 (3) This chapter does not prevent any appropriate  
26 state agency from issuing an order or taking any other  
27 action pursuant to state law.

28 *SEC. 9. Section 25404.5 of the Health and Safety Code*  
29 *is amended to read:*

30 25404.5. (a) (1) Each certified unified program  
31 agency shall institute a single fee system, which shall  
32 replace the fees levied pursuant to Sections 25201.14 and  
33 25205.14, except for transportable treatment units  
34 permitted under Section 25200.2, and which shall also  
35 replace any fees levied by a local agency pursuant to  
36 Sections 25143.10, 25287, 25513, and 25535.2, or any other  
37 fee levied by a local agency specifically to fund the  
38 implementation of the provisions specified in subdivision  
39 (c) of Section 25404. Notwithstanding Sections 25143.10,  
40 25201.14, 25205.14, 25287, 25513, and 25535.2, a person who

1 complies with the certified unified program agency's  
2 "single fee system" fee shall not be required to pay any  
3 fee levied pursuant to those sections, except for  
4 transportable treatment units permitted under Section  
5 25200.2.

6 (2) (A) The governing body of the *local* certified  
7 unified program agency shall establish the amount to be  
8 paid by each person regulated by the unified program  
9 under the single fee system at a level sufficient to pay the  
10 necessary and reasonable costs incurred by the certified  
11 unified program agency and by any participating agency  
12 pursuant to the requirements of subparagraph (E) of  
13 paragraph (1) of subdivision (d) of Section 25404.3.

14 (B) *The secretary shall establish the amount to be paid*  
15 *when the unified program agency is a state agency.*

16 (3) The fee system may also be designed to recover the  
17 necessary and reasonable costs incurred by the certified  
18 unified program agency, or a participating agency  
19 pursuant to the requirements of subparagraph (E) of  
20 paragraph (1) of subdivision (d) of Section 25404.3, in  
21 administering provisions other than those specified in  
22 subdivision (c) of Section 25404, if the implementation  
23 and enforcement of those provisions has been  
24 incorporated as part of the unified program by the  
25 certified unified program agency pursuant to subdivision  
26 (b) of Section 25404.2, and if the single fee system  
27 replaces any fees levied as of January 1, 1994, to fund the  
28 implementation of those additional provisions.

29 (4) The amount to be paid by a person regulated by  
30 the unified program may be adjusted to account for the  
31 differing costs of administering the unified program with  
32 respect to that person's regulated activities.

33 (b) (1) Except as provided in subdivision (d), the  
34 single fee system instituted by each certified unified  
35 program agency shall include an assessment on each  
36 person regulated by the unified program of a surcharge,  
37 the amount of which shall be determined by the secretary  
38 annually, to cover the necessary and reasonable costs of  
39 ~~the Office of Emergency Services, the State Fire Marshal,~~  
40 ~~and the State Water Resources Control Board~~ *state*

1 *agencies* in carrying out their responsibilities under this  
2 chapter. The secretary may adjust the amount of the  
3 surcharge to be collected by different certified unified  
4 program agencies to reflect the different costs incurred  
5 by the ~~Office of Emergency Services, the State Fire~~  
6 ~~Marshal, and the State Water Resources Control Board~~  
7 *state agencies* in supervising the implementation of the  
8 unified program in different jurisdictions, and in  
9 supervising the implementation of the unified program  
10 in those jurisdictions for which the secretary has waived  
11 the assessment of the surcharge pursuant to subdivision  
12 (d). The certified unified program agency may itemize  
13 the amount of the surcharge on any bill, invoice, or return  
14 that the agency sends to a person regulated by the unified  
15 program. Each certified unified program agency shall  
16 transmit all surcharge revenues collected to the secretary  
17 on a quarterly basis. The surcharge shall be deposited in  
18 the Unified Program Account, which is hereby created in  
19 the General Fund and which may be expended, upon  
20 appropriation by the Legislature, by the ~~Office of~~  
21 ~~Emergency Services, the State Fire Marshal, and the~~  
22 ~~State Water Resources Control Board~~ *state agencies* for  
23 the purposes of implementing this chapter.

24 (2) *On or before January 10, 2001, the secretary shall*  
25 *report to the Legislature on whether the number of*  
26 *persons subject to regulation by the unified program in*  
27 *any county is insufficient to support the reasonable and*  
28 *necessary cost of operating the unified program using*  
29 *only the revenues from the fee. The secretary's report*  
30 *shall include an assessment to be used to supplement the*  
31 *funding of unified program agencies that have a limited*  
32 *number of entities regulated under the unified program.*

33 (c) Each certified unified program agency and the  
34 secretary shall, before the institution of the single fee  
35 system and the assessment of the surcharge, implement  
36 a fee accountability program designed to encourage  
37 more efficient and cost-effective operation of the  
38 program for which the single fee and surcharge are  
39 assessed. The fee accountability programs shall include  
40 those elements of the requirements of the plan adopted

1 pursuant to Section 25206 that the secretary determines  
2 are appropriate.

3 (d) The secretary may waive the requirement for a  
4 county to assess a surcharge pursuant to subdivision (b),  
5 if both of the following conditions apply:

6 (1) The county meets all of the following conditions:

7 (A) The county submits an application to the secretary  
8 for certification on or before January 1, 1996, that  
9 incorporates all of the requirements of this chapter, and  
10 includes the county's request for a waiver of the  
11 surcharge, and contains documentation that  
12 demonstrates, to the satisfaction of the secretary, both of  
13 the following:

14 (i) That the assessment of the surcharge will impose a  
15 significant economic burden on most businesses within  
16 the county.

17 (ii) That the combined dollar amount of the surcharge  
18 and the single fee system to be assessed by the county  
19 pursuant to subdivision (a) exceeds the combined dollar  
20 amount of all existing fees that are replaced by the single  
21 fee system for most businesses within the county.

22 (B) The application for certification, including the  
23 information required by subparagraph (A), is  
24 determined by the secretary to be complete, on or before  
25 April 30, 1996. The secretary, for good cause, may grant  
26 an extension of that deadline of up to 90 days.

27 (C) The county is certified by the secretary on or  
28 before December 31, 1996.

29 (D) On or before January 1, 1994, the county  
30 completed the consolidation of the administration of the  
31 hazardous waste generator program, the hazardous  
32 materials release response plans and inventories  
33 program, and the underground storage tank program,  
34 referenced in paragraphs (1), (3), and (4) of subdivision  
35 (c) of Section 25404, into a single program within the  
36 county's jurisdiction.

37 (E) The county demonstrates that it will consolidate  
38 the administration of all programs specified in subdivision  
39 (c) of Section 25404, and that it will also consolidate the  
40 administration of at least one additional program that

1 regulates hazardous waste, hazardous substances, or  
2 hazardous materials, as specified in subdivision (d) of  
3 Section 25404.2, other than the programs specified in  
4 subdivision (c) of Section 25404, into a single program to  
5 be administered by a single agency in the county's  
6 jurisdiction at the time that the county's certification by  
7 the secretary becomes effective.

8 (2) The secretary makes all of the following findings:

9 (A) The county meets all of the criteria specified in  
10 paragraph (1).

11 (B) The assessment of the surcharge would impose a  
12 significant economic burden on most businesses within  
13 the county.

14 (C) The combined dollar amount of the surcharge and  
15 the single fee system to be assessed by the county  
16 pursuant to subdivision (a) would exceed the combined  
17 dollar amount of all existing fees that are replaced by the  
18 single fee system for most businesses within the county.

19 (D) The waiver of the surcharge for those counties  
20 applying for and qualifying for a waiver, and the resulting  
21 increase in the surcharge for other counties, would not,  
22 when considered cumulatively, impose a significant  
23 economic burden on businesses in any other county that  
24 does not apply for, or does not meet the criteria for, a  
25 waiver of the surcharge.

26 (e) The secretary shall review all of the requests for a  
27 waiver of the surcharge made pursuant to subdivision (d)  
28 simultaneously, so as to adequately assess the cumulative  
29 impact of granting the requested waivers on businesses in  
30 those counties that have not applied, or do not qualify, for  
31 a waiver, and shall grant or deny all requests for a waiver  
32 of the surcharge within 30 days from the date that the  
33 secretary certifies all counties applying, and qualifying,  
34 for a waiver. If the secretary finds that the grant of a  
35 waiver of the surcharge for all counties applying and  
36 qualifying for the waiver will impose a significant  
37 economic burden on businesses in one or more other  
38 counties, the secretary shall take either of the following  
39 actions:

1 (1) Deny all of the applications for a waiver of the  
2 surcharge.

3 (2) Approve only a portion of the waiver requests for  
4 counties meeting the criteria set forth in subdivision (d),  
5 to the extent that the approved waivers, when taken as  
6 a whole, meet the condition specified in subparagraph  
7 (D) of paragraph (2) of subdivision (d). In determining  
8 which of the counties' waiver requests to grant, the  
9 secretary shall consider all of the following factors:

10 (A) The relative degree to which the assessment of the  
11 surcharge will impose a significant economic burden on  
12 most businesses within each county applying and  
13 qualifying for a waiver.

14 (B) The relative degree to which the combined dollar  
15 amount of the surcharge and the single fee system to be  
16 assessed, pursuant to subdivision (a), by each county  
17 applying and qualifying for a waiver exceeds the  
18 combined dollar amount of all existing fees that are  
19 replaced by the single fee system for most businesses  
20 within the county.

21 (C) The relative extent to which each county applying  
22 and qualifying for a waiver has incorporated, or will  
23 incorporate, upon certification, additional programs  
24 pursuant to subdivision (d) of Section 25404.2, into the  
25 unified program within the county's jurisdiction.

26 (f) The secretary may, at any time, terminate a  
27 county's waiver of the surcharge granted pursuant to  
28 subdivisions (d) and (e) if the secretary determines that  
29 the criteria specified in subdivision (d) for the grant of a  
30 waiver are no longer met.

31 *SEC. 10. Section 25404.6 of the Health and Safety*  
32 *Code is amended to read:*

33 25404.6. (a) The secretary may immediately  
34 implement those aspects of the unified program which do  
35 not require statutory changes. If the secretary determines  
36 that statutory changes are needed to fully implement the  
37 program, the secretary shall recommend those changes  
38 to the Legislature on or before March 1, 1995, so that the  
39 changes, if approved by the Legislature, can be  
40 implemented as part of the program by January 1, 1996.

1 (b) The secretary shall work in close consultation with  
2 the Environmental Protection Agency, and shall  
3 implement this chapter only to the extent that doing so  
4 will not result in this state losing its authorization or  
5 delegation to implement the Resource Conservation and  
6 Recovery Act of 1976 (42 U.S.C. Sec. 6901 et seq.), the  
7 Federal Water Pollution Control Act, (33 U.S.C. Sec. 1251  
8 et seq.), the Emergency Planning and Community  
9 Right-to-Know Act of 1986 (42 U.S.C. Sec. 11001 et seq.),  
10 and any other applicable federal laws.

11 (c) The secretary shall adopt regulations necessary for  
12 the orderly administration and implementation of the  
13 unified program. *The regulations shall include, but are*  
14 *not limited to, performance standards to guide the*  
15 *secretary in evaluating unified program agencies*  
16 *including evaluation fee accountability and enforcement*  
17 *activities.* The secretary shall adopt those regulations as  
18 emergency regulations in accordance with Chapter 3.5  
19 (commencing with Section 11340) of Part 1 of Division 3  
20 of Title 2 of the Government Code, and for the purposes  
21 of that chapter, including Section 11349.6 of the  
22 Government Code, the adoption of the regulations is an  
23 emergency and shall be considered by the Office of  
24 Administrative Law as necessary for the immediate  
25 preservation of the public peace, health, safety, and  
26 general welfare.

27 *SEC. 11. Section 39619.6 is added to the Health and*  
28 *Safety Code, to read:*

29 *39619.6. By June 30, 2002, the state board and the State*  
30 *Department of Health Services, in consultation with the*  
31 *State Department of Education, the Department of*  
32 *General Services, and the Office of Environmental*  
33 *Health Hazard Assessment, shall conduct a*  
34 *comprehensive study and review of the environmental*  
35 *health conditions in portable classrooms, as defined in*  
36 *subdivision (k) of Section 17070.15 of the Education*  
37 *Code.*

38 *(b) The state board and the department shall jointly*  
39 *coordinate the study, oversee data analysis and quality*  
40 *assurance, coordinate stakeholder participation, and*



1 *prepare recommendations. The state board shall develop*  
2 *and oversee the contract for field work, air monitoring*  
3 *and data analysis, and obtain equipment for the study.*  
4 *The department shall oversee the assessment of*  
5 *ventilation systems and practices and the evaluation of*  
6 *microbiological contaminants, and may provide*  
7 *laboratory analyses as needed.*

8 *(c) By August 31, 2000, the state board shall release a*  
9 *request for proposals for the field portion of the study.*  
10 *Field work shall begin not later than July, 2001. The final*  
11 *report shall be completed on or before June 30, 2002, and*  
12 *shall be provided to the appropriate policy committees of*  
13 *the Legislature. The study of portable classrooms shall*  
14 *include all of the following:*

15 *(1) Review of design and construction specifications,*  
16 *including those for ventilation systems.*

17 *(2) Review of school maintenance practices, including*  
18 *the actual operation or nonoperation of ventilation*  
19 *systems.*

20 *(3) Assessment of indoor air quality.*

21 *(4) Assessment of potential toxic contamination,*  
22 *including molds and other biological contaminants.*

23 *(d) The final report shall summarize the results of the*  
24 *study and review, and shall include recommendations to*  
25 *remedy and prevent unhealthful conditions found in*  
26 *portable classrooms, including the need for all of the*  
27 *following:*

28 *(1) Modified design and construction standards,*  
29 *including ventilation specifications.*

30 *(2) Emission limits for building materials and*  
31 *classroom furnishings.*

32 *(3) Other mitigation actions to ensure the protection*  
33 *of children's health.*

34 *SEC. 12. Section 13182 is added to the Water Code, to*  
35 *read:*

36 *13182. (a) The board shall develop a comprehensive*  
37 *coastal water resources monitoring and assessment*  
38 *program for fish and shellfish. The program shall identify,*  
39 *monitor, and assess all of the following:*

40 *(1) Fish and shellfish contamination.*

1     (2) *Bacterial contamination of shellfish beds.*

2     (3) *Risk to human health.*

3     (b) *Monitoring sites identified for the program shall*  
4 *be monitored at least once every five years. Each fish or*  
5 *shellfish shall be analyzed for the metals or*  
6 *organochlorines most likely to contaminate fish or*  
7 *shellfish in a given area. The board shall consult with the*  
8 *Department of Fish and Game, the Office of*  
9 *Environmental Health Hazard Assessment, the regional*  
10 *boards whose jurisdiction includes a portion of the coast,*  
11 *and interested parties in determining the analytical*  
12 *constituents, sampling locations, portion of fish and*  
13 *shellfish to be analyzed, and species to be collected based*  
14 *on existing data, and known catch and consumption data.*  
15 *At least three species shall be collected and analyzed from*  
16 *each monitoring location. There shall be at least 50*  
17 *sample locations located both north and south of Point*  
18 *Arguello.*

19     (c) *The board shall contract with the Office of*  
20 *Environmental Health Hazard Assessment to prepare a*  
21 *comprehensive health risk assessment for consumers of*  
22 *fish and shellfish by January 1, 2005, and update the*  
23 *assessment every five years. The assessment shall be*  
24 *based on the results of the fish and shellfish monitoring*  
25 *program and information on fish consumption and food*  
26 *preparation. The risk assessment shall be based upon the*  
27 *top three chemicals that pose the majority of health risks*  
28 *for humans unless the Office of Environmental Health*  
29 *Hazard Assessment finds that additional chemicals should*  
30 *be included in the assessment.*

31     (d) *If the health risk assessment demonstrates that*  
32 *consuming certain fish or shellfish is subject to a*  
33 *significant health risk, the Office of Environmental*  
34 *Health Hazard Assessment shall forward that assessment*  
35 *to the State Department of Health Services. If the State*  
36 *Department of Health Services receives a health risk*  
37 *assessment, the State Department of Health Services*  
38 *shall issue health warnings to the public in a manner that*  
39 *ensures the population at risk is informed. This*  
40 *communication shall include, but is not limited to,*

1 signage on piers and commercial sportfishing vessels,  
2 warnings on fishing licenses, and printed material  
3 available at stores that cater to sportfishers.

4 (e) The board, in consultation with the Department of  
5 Fish and Game and the Office of Environmental Health  
6 Hazard Assessment, shall reassess the geographic  
7 boundaries of the commercial fish closure off the Palos  
8 Verdes Shelf. The reassessment shall include fish  
9 collection and sample analysis for white croaker caught  
10 on the Palos Verdes Shelf, within three miles south of the  
11 shelf, and within San Pedro Bay. Based on the results of  
12 the reassessment, the Department of Fish and Game,  
13 with guidance from the Office of Environmental Health  
14 Hazard Assessment, shall redelinate, if necessary, the  
15 commercial fish closure area to protect the health of  
16 consumers of commercially caught white croaker.

17 SEC. 13. (a) Of the amount appropriated by Item  
18 3960-011-0001 of Section 2.00 of the Budget Act of 2000 to  
19 establish an urban cleanup program to clean up and  
20 redevelop contaminated properties, known as  
21 brownfields, the sum of eighty-five million dollars  
22 (\$85,000,000) is hereby transferred to the Cleanup Loans  
23 and Environmental Assistance to Neighborhoods  
24 Account.

25 (b) Of the amount appropriated by that item for that  
26 purpose five hundred thousand dollars (\$500,000) is  
27 hereby transferred to Item 3960-001-0014 (Program  
28 12-Site Mitigation) for program development related to  
29 brownfields during the 2000–01 fiscal year.

30 SEC. 14. No reimbursement is required by this act  
31 pursuant to Section 6 of Article XIII B of the California  
32 Constitution because a local agency or school district has  
33 the authority to levy service charges, fees, or assessments  
34 sufficient to pay for the program or level of service  
35 mandated by this act, within the meaning of Section 17556  
36 of the Government Code.

37 SEC. 15. This act is an urgency statute necessary for  
38 the immediate preservation of the public peace, health,  
39 or safety within the meaning of Article IV of the

1 *Constitution and shall go into immediate effect. The facts*  
2 *constituting the necessity are:*  
3 *In order to make the necessary statutory changes to*  
4 *implement the Budget Act of 2000 at the earliest possible*  
5 *time, it is necessary that this act take effect immediately.*

